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EXAMINER

WAKS, JOSEPH

ART UNIT PAPER NUMBER

2834

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

**Application No.**

09/764,004

**Applicant(s)**ORTT, EARL M. **Examiner**

Joseph Waks

**Art Unit**

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 10-12, 16-21 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 4-6, 8, 9, 13-15 and 22-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7, 9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. **Claims 7, 16, and 25** are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 7, 16, and 25 that recite one end connected to the housing respectively depend on claims 6, 15, and 24 that already recite the two ends of the anchor being connected to the housing.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claims 7, 16, and 25** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 7 and 16, line 1, "one end" is indefinite since it does not define one end of what is recited in the claim.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claim 1** is rejected under 35 U.S.C. 102(b) as being anticipated by **Brosse** (FR 2 617 345).

**Brosse** discloses in Figures 5-7 invention as claimed: a flux ring 1 comprising an annular housing of a magnetically permeable material, molded magnet 5 received on the housing, and anchor 15 on the housing retaining the magnet in the housing, wherein the anchor is unitarily formed with the housing (Re page 5, lines 20-24) and including a bend and a reinforcement member 15b.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 2, 3, 8, and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brosse** (FR 2 617 345).

**Brosse** discloses the flux ring of a magnetically permeable material. However, **Brosse** fails to disclose the ring made of a magnetically permeable metal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the ring as taught by **Brosse** and to provide the ring made of the magnetically permeable metal for the purpose of strengthen the ring structure, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

The combined tool discloses the claimed invention except for the anchor having the T or L-shape. It would have been an obvious matter of design choice to design the anchor in the T or L-shape since applicant has not disclosed that these particular shapes solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other shape like S or V-shape. *In re Span-Deck Inc. v. Fab-Con Inc.* (CA 8, 1982) 215 USPQ 835.

8. **Claims 10 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Brennan et al. (US 4,873,461)** in view of **Brosse (FR 2 617 345)**.

**Brennan et al.** disclose in Figures 1, 1A, and 2, a power tool 10 comprising a housing 11, a motor 20 comprising a stator assembly including a low carbon steel flux ring 24 (Re column 5, lines 15-20), magnets 65 retained in the housing 23, an armature 33, a commutator 36 connected to the armature via shaft 21, brush assemblies 43, 44, a power supply B, an output member 22, and the actuator member 16. However, **Brennan et al.** fail to disclose the at least one molded magnet being retained by an anchor unitarily formed in the housing of molding a powdered magnetic material of increased magnetic force directly to the ring or yoke of molding a powdered magnetic material of increased magnetic force directly to the ring or yoke.

**Brosse** discloses a flux ring 1 comprising an annular housing of a magnetically permeable material, molded magnet 5 received on the housing, and anchor 15 on the housing retaining the magnet in the housing, wherein the anchor is unitarily formed with the housing (Re page 5, lines 20-24) and including a bend and a reinforcement member 15b for the purpose of molding a powdered magnetic material of increased magnetic force directly to the ring or yoke.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the power tool as taught by **Brennan et al.** and to provide at least one molded magnet being retained by an anchor unitarily formed in the housing as taught by **Brosse** for the purpose of molding a powdered magnetic material of increased magnetic force directly to the ring or yoke.

9. **Claims 11, 12, 17, 18, 20, 21, 26, and 27** are rejected under 35 U.S.C. 103(a) as being unpatentable **Brennan et al. (US 4,873,461)** in view of **Brosse (FR 2 617 345)** as applied to claims 11 and 19.

The combined power tool discloses all elements as claimed including the flax ring of a magnetically permeable material. However, it fails to disclose the ring made of a magnetically permeable metal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the combined tool and to provide the ring made of the magnetically permeable metal for the purpose of strengthening the ring structure, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

The combined tool discloses the claimed invention except for the anchor having the T or L-shape. It would have been an obvious matter of design choice to design the anchor in the T or L-shape since applicant has not disclosed that these particular shapes solve any stated problem or is for any particular purpose and it appears that the invention would perform equally well with

any other shape like S or V-shape. *In re Span-Deck Inc. v. Fab-Con Inc.* (CA 8, 1982) 215 USPQ 835.

***Allowable Subject Matter***

10. **Claims 4-6, 8, 9, 13-15, 22-24** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Re claims 4, 5, 13, 14, 22-24 and, the feature of the anchor formed from the housing and providing an aperture immediate the anchor, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

Re claims 6 and 15, the feature of the anchor having an overall rectangular shape with two ends connected to the housing with reinforcement members at the bends, in combination with the other limitations present, are neither disclosed nor taught by the prior art of record.

***Communication***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (703) 308-1676. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-1341 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

  
JOSEPH WAKS  
PRIMARY PATENT EXAMINER  
TC-2800

JW  
August 22, 2002